IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

WP(C).No. 26904 of 2005(C)

PETITIONER:

K.V.VARKEY, RETIRED P.D.TEACHER,
B.H.S.S., AKANAD,
KOTHAMANGALAM, ERNAKULAM DISTRICT,
(KOTTAKKAL HOUSE, MUDAKUZHA.P.O.,
VENGOOR, ERNAKULAM).

BY ADV. SRI.K.S.MOHAMED HASHIM

RESPONDENTS:

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1. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
ERNAKULAM.

3. THE DISTRICT EDUCATION OFFICER,
ERNAKULAM.

4. THE PRINCIPAL,
G.H.S.S.AKANAD,
KOTHAMANGALAM.

BY GOVT.PLEADER SMT.LAKSHMI RANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: A true copy of the Gratuity payment order dated 25-04-2004 issued by the office of the Accountant General

// True Copy//

A.K.BASHEER.J

W.P.(C) No. 26904 of 2005

Dated this the 27th day of February 2007

JUDGMENT

This writ petition depicts the sad plight of a retired Primary Department teacher who has been denied his Death-cum-Retirement Gratuity for the last three years.

2. Petitioner retired from service on 30-4-2004 after putting in 20 years of service. It is not in dispute that an amount of Rs. 1,54.960/- was sanctioned to him as DCRG . But the respondent did not disburse the said amount on the ground that 'Non liability Certificate' had not been issued so far.

3. The respondents took the view that petitioner was liable to make good the loss sustained by the school library during the period he petitioner was in additional charge of Library till December 31 1997. He handed over charge of the library to his colleague on 1-1-1998. It is the case of the respondents that about 230 library books were missing from the school library and the petitioner was liable for the loss.

3. Curiously the quantum of liability was not fixed by the respondents at any point of time, obviously therefore D.C.R.G was not

disbursed This writ petition was filed in September 2005. In the counter-affidavit filed by respondent No.1 in August 2006, it is contended that the petitioner was directed to return the books or to pay their value. But nowhere it has been stated in the counter- affidavit as to what was the quantum of liability. Learned counsel for the petitioner has made available a copy of the proceedings of the Administrative Assistant in the office of the Deputy District Education Director, Ernakulam, quantifying the liability of the petitioner at Rs. 5924.74 which is stated to be double the value of the books that were destroyed by termites and rats. It is not discernible from this order dated November 14, 2006 whether the petitioner was heard before quantification was made. Learned counsel submits that petitioner was not served with any notice prior to issuance of the order mentioned above. Obviously therefore he was not heard. A copy of the order is taken on record and marked as Ext.X .

In the above facts and circumstances, I find no justification in withholding the DCRG payable to the petitioner any more. Moreover I am satisfied this is a fit case where the petitioner should be paid the cost of this proceedings.

4. The writ petition is therefore, disposed of with the following directions.

(i) The amount of DCRG as quantified by the respondents less the amount of Rs. 5,924.74 shall be

released to the petitioner by respondent No. 2 and/ or 3 within four weeks from the date of receipt of a copy of this judgment.

(ii) Respondents 2 and 3 shall jointly pay Rs.5,000/- as cost to the petitioner within four weeks from the date of receipt of a copy of this judgment.

(iii) Respondents No. 2 shall consider the representation, if any, that may be submitted by the petitioner with regard to the liability now fastened on him. The representation shall be submitted by the petitioner within two weeks from the date of receipt of a copy of this judgment. Final orders on the said representation shall be passed by Respondent No.2 as expeditiously as possible at any rate within two months from the date of receipt of the said representation after affording sufficient opportunity to the petitioner to be heard. It is made clear that Ext.X shall be subject to the final orders that may be passed by respondent No.2 on the representation mentioned above.

A.K.BASHEER, JUDGE

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